

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
STEVEN S. NOVICK,

Plaintiff,

- against -

AXA NETWORK, LLC,

Defendant.

: ECF Case
:
: Case No.:
: 07 CIV 7767 (AKH)(KNF)
:
:
:
: DEFENDANT'S NOTICE OF
: MOTION TO DISMISS AND
: TO COMPEL ARBITRATION,
: OR ALTERNATIVELY, TO
: STAY ACTION
:
----- X

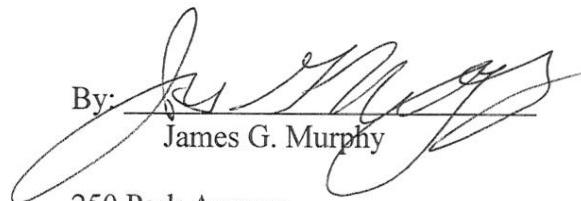
PLEASE TAKE NOTICE that, pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure and the Federal Arbitration Act, 9 U.S.C. §§ 1-16, and the Court's inherent power to control its docket and to stay proceedings when parallel proceedings have been commenced against a related party in arbitration, and based on the Affidavit of Jean Solanto, sworn to October 25, 2007, and the exhibits annexed thereto, the Affidavit of James G. Murphy, Esq., sworn to October 25, 2007, and the exhibits annexed thereto, and on all the pleadings and proceedings herein, Defendant AXA Network, LLC ("Defendant") will move this Court, before the Honorable Alvin J. Hellerstein, at the United State Courthouse, 500 Pearl Street, New York, New York, 10007, on November 28, 2007 at 9:30 a.m. or such other date and time to be determined by the Court, for an order dismissing the Plaintiff's action for lack of subject matter jurisdiction and compelling Plaintiff to arbitrate his claims before the Financial Industry Regulatory Authority ("FINRA"), or alternatively, to stay this action pending the resolution of the arbitration pending before FINRA in the matter Steven S. Novick against AXA Advisors, LLC, FINRA Docket No.: 07-2464. The grounds for this motion, are set forth in detail in the

accompanying Memorandum of Law in Support of Defendant's Motion to Dismiss and to Compel Arbitration, or Alternatively, to Stay Action.

WHEREFORE, Defendant respectfully request that the Court (a) dismiss the Plaintiff's action for lack of subject matter jurisdiction and compel Plaintiff to arbitrate his claims before FINRA, or alternatively, (b) to stay this action pending the resolution of the arbitration pending before FINRA in the matter Steven S. Novick against AXA Advisors, LLC, FINRA Docket No.: 07-2464; and (c) award Defendant such other and further relief as the Court deems just and appropriate.

Dated: New York, New York
October 25, 2007

EPSTEIN BECKER & GREEN, P.C.

By: 
James G. Murphy

250 Park Avenue
New York, New York 10177-1211
(212) 351-4500
E-mail: jmurphy@ebglaw.com
Attorneys for Defendant

To: Robert L. Herskovits, Esq.
Gusra, Kaplan, Bruno & Nusbaum PLLC
120 Wall Street
New York, New York 10005-3977
Tel (212) 269-1400
E-mail: r herskovits@gkblaw.com
Attorneys for Plaintiff